

HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,  
  
Plaintiff,  
  
v.  
  
MOTOROLA, INC., et al.,  
  
Defendants.

No. C10-1823-JLR

MICROSOFT'S MOTION TO FILE  
DOCUMENTS UNDER SEAL

**NOTED FOR:**  
**Friday, December 9, 2011**

MOTOROLA MOBILITY, INC., et al.,  
  
Plaintiffs,  
  
v.  
  
MICROSOFT CORPORATION,  
  
Defendant.

**I. RELIEF REQUESTED**

Microsoft Corporation moves for leave to file under seal Exhibit B to the Declaration of Christopher Wion in Support of Microsoft's Opposition to Motorola's Motion for Leave to Amend Its Invalidity Contentions (the "Wion Declaration") pursuant to Local Civil Rule 5(g) and paragraphs 2(a) and 8 of the Protective Order entered in this case.

**II. FACTS & AUTHORITY**

The Wion Declaration attaches, as Exhibit B, certain information designated by Motorola as Confidential -- Outside Attorneys' Eyes Only. Exhibit B to the Wion Declaration is a copy of Plaintiffs Motorola Mobility, Inc. and General Instrument Corporation's Responses to Defendant Microsoft Corporation's First Set of Interrogatories served on March 30, 2011, in Case No. C11-00343-JLR (consolidated with the above-captioned action). Under the terms of the Protective Order entered on July 21, 2011 (ECF No. 72), Microsoft is required to file Exhibit B to the Wion Declaration under seal in order to maintain the confidentiality of material that Motorola has identified as Confidential.

Paragraphs 2(a) and 8 of the Protective Order govern the filing of documents under seal. Paragraph 2(a) provides:

Any information submitted in pre-trial discovery or in a pleading, motion, or response to a motion in this action...and which is asserted by a supplier to contain or constitute Confidential Business Information shall be so designated by such supplier in writing...and shall be segregated from other information being submitted. Documents shall be clearly and prominently marked on their face with the legend: "[SUPPLIER'S NAME] CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER" or a comparable notice. During the pre-trial phase of this action, such information, whether submitted in writing or in oral testimony, shall be disclosed only *in camera* before the Court and shall be filed only under seal, pursuant to Rule 5(g) of the Local Civil Rules of the United States District Court for the Western District of Washington.

Paragraph 8 likewise provides that:

Any Confidential Business Information submitted to the Court in connection with a motion or other proceeding within the purview of this action shall be submitted under seal pursuant to paragraph 2 above.

*Id.*, at ¶ 8.

Under these provisions of the Protective Order, Microsoft is required to file Exhibit B to the Wion Declaration under seal because that exhibit includes information that Motorola has designated as Confidential - Outside Attorneys Eyes Only under the Protective Order. For purposes of this Motion, Microsoft is not opposing Motorola's relevant confidentiality designations. However, nothing in this Motion is intended as a waiver of Microsoft's right to contest these or any other of Motorola's designations of material to be protected under the terms of the Protective Order. Microsoft expressly reserves the right to do so as the circumstances warrant.

Microsoft is filing a public version of the Wion Declaration in which Exhibit B has been redacted.

### III. CONCLUSION

For the foregoing reasons, Microsoft respectfully requests that this Court permit Microsoft to file Exhibit B to the Wion Declaration under seal, with a redacted copy of the Wion Declaration filed in the public record. A [Proposed] Order Granting Microsoft's Motion to File Documents Under Seal has been submitted herewith.

1 DATED this 28th day of November, 2011.

2 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

3  
4 By /s/ Christopher Wion  
5 Arthur W. Harrigan, Jr., WSBA #1751  
6 Christopher Wion, WSBA #33207  
7 Shane P. Cramer, WSBA #35099

8 T. Andrew Culbert, WSBA #35925  
9 David E. Killough, WSBA #40185  
10 MICROSOFT CORPORATION  
11 1 Microsoft Way  
12 Redmond, WA 98052  
13 Phone: 425-882-8080; Fax: 425-869-1327

14 David T. Pritikin, *Pro Hac Vice*  
15 Richard A. Cederroth, *Pro Hac Vice*  
16 Douglas I. Lewis, *Pro Hac Vice*  
17 John W. McBride, *Pro Hac Vice*  
18 SIDLEY AUSTIN LLP  
19 One South Dearborn  
20 Chicago, IL 60603  
21 Phone: 312-853-7000; Fax: 312-853-7036

22 Brian R. Nester, *Pro Hac Vice*  
23 Kevin C. Wheeler, *Pro Hac Vice*  
24 SIDLEY AUSTIN LLP  
25 1501 K Street NW  
Washington, DC 20005  
Telephone: 202-736-8000; Fax: 202-736-8711

Counsel for Microsoft Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

**Attorneys for Defendants Motorola Solutions, Inc., Motorola Mobility, Inc., and General Instrument Corporation**

Philip S. McCune  
Lynn M. Engle  
Summit Law Group

Steven Pepe  
Jesse J. Jenner  
Norman Beamer  
Paul M. Schoenhard  
Ropes & Gray

\_\_\_\_\_  
/s/ Linda Bledsoe